



DEPARTMENTS OF THE ARMY AND THE AIR FORCE
JOINT FORCE HEADQUARTERS
OFFICE OF THE ADJUTANT GENERAL - CALIFORNIA NATIONAL GUARD
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CAJS-J1-HR-EO

1 March 2007

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: POLICY MEMORANDUM 07-02 Prevention of Sexual Harassment

1. As the Adjutant General, I continue to be firmly committed to supporting a "zero tolerance" policy for sexual harassment. Sexual harassment violates acceptable standards of character and fairness required of all Soldiers, Airmen, and civilians. It also harms mission accomplishment and unit/workplace cohesion.
2. Sexual harassment involves unwelcome sexual advances, requests for sexual favors, and other kinds of verbal or physical conduct of a sexual nature made a term or condition of a person's job. This behavior creates a hostile or abusive environment ultimately interfering with the performance of Soldiers, Airmen, and civilians.
3. Sexual harassment in any form is a violation of federal law and National Guard regulations. It is also a violation of laws and regulations to ignore or condone claims of sexual harassment, to take reprisal action against a person for filing a claim or being a witness, or to make false accusations of sexual harassment.
4. Individuals who perceive they are being sexually harassed by supervisors, superiors, co-workers, or peers should make it clear to the alleged harasser/offender that the behavior is "unwelcome" and report the harassment to an appropriate authority. It is the responsibility of every leader, military or civilian, to examine allegations of sexual harassment and take the necessary action to ensure that these matters are addressed swiftly, fairly, and effectively.
5. Where allegations are substantiated, offenders will be subjected to "no-nonsense," strong disciplinary actions ranging from reprimand to termination.
6. Commanders, leaders, managers, and supervisors, I look to you to continue to set the example and take the lead in being the prime example of respectful and professional leadership.
7. The enclosed standard operating procedures should be used by commanders, leaders, managers, and supervisors when an individual makes an allegation of sexual harassment.
8. Commanders will work with Equal Opportunity Advisors, Representatives, and Military Equal Opportunity Officers to assure that every Soldier, Airman, and civilian receives one hour of annual training on the Prevention of Sexual Harassment per NGR 600-21 and one hour at least every two years per ANGI 36-7. Sexual harassment can be prevented if we all do our part.

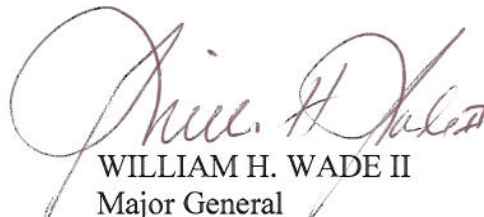
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9. I know that you will continue to support the California National Guard's continuing commitment to eradicate sexual harassment while exhibiting the highest level of professional behavior and courtesy that our communities, state, and nation expect.

10. Any questions or comments may be addressed to the EEO/EO Office at (916) 854-3646.

Encl
as



WILLIAM H. WADE II
Major General
The Adjutant General

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Standard Operating Procedures for Supervisors when responding to an Allegation of Sexual Harassment

What should supervisors do when responding to an allegation of sexual harassment?

1. If someone **sexually assaults someone, it is a crime - REPORT IT!** Sexual assault is defined as intentional sexual contact, characterized by use of force or abuse of authority or when the victim does not or cannot consent.
2. As soon as the supervisor learns about alleged sexual harassment, they should determine whether a detailed fact-finding investigation is necessary. For example, if the alleged harasser does not deny the accusation, there would be no need to interview witnesses, and the employer could immediately determine appropriate corrective action.
3. Agree to hear the complainant as soon as it is brought to his/her attention. Do **not** postpone the meeting with the alleged harasser. Allow the complainant to tell his/her story without interruption. Listen objectively. Do not judge the employee or imply that the employee may have asked for or invited the alleged unlawful conduct.
4. It may be necessary to undertake intermediate measures before completing the investigation to ensure that further harassment does not occur. Examples of such measures are making scheduling changes so as to avoid contact between the parties or temporarily transferring the alleged harasser. The complainant should not be involuntarily transferred or otherwise burdened, since such measures could constitute unlawful retaliation. Take written notes of the allegation(s).
5. Ask the employee to summarize his/her concerns in writing. If the employee chooses not to do this, reassure the employee that a written statement is not a condition of having his/her concerns addressed.
6. Ask the employee to describe the remedy he/she is seeking.
7. Assure the employee that the employer will make an immediate inquiry into the allegation and try to resolve it informally at the lowest level. Document the discussion.
8. Remind the employee of his/her right to be free from retaliation in any form for complaining. Tell the employee that he/she should immediately bring any incidents of retaliation to your attention or, in your absence, to the attention of another supervisor or manager. Document the reminder.
9. After receiving the employee's complaint, immediately notify the State Equal Employment Office of the complaint, of the advice given to the complainant, and of the option chosen by the complainant.

Sexual Harassment - Defined

Two categories of sexual harassment are recognized:

1. **Quid Pro Quo** - Sexual harassment presented as a “bargain” (quid pro quo). Unwelcome sexual advances, request for sexual favors, and other verbal and physical conduct of a sexual nature by one in a superior position constitutes “bargained-for sexual harassment” when submission by another is made either an explicit or implicit term or condition of employment or of academic standing. In this case, apparent consent of the submitting party is less relevant than the extent to which the sexual conduct is unwelcome. As defined here, “bargained-for sexual harassment” normally arises in the context of an authority relationship. This relationship may be direct as in the case of a supervisor and subordinate, or teacher and student, or it may be indirect when the harasser has the power to direct others who have authority over the victim.
2. **Environmental Sexual Harassment** - Unwelcome sexual advances, requests for sexual favors, and other verbal and physical conduct of sexual nature constitute “environmental sexual harassment” when such conduct has the purpose or effect of creating an intimidating, hostile, or offensive environment which unreasonably interferes with another's work, academic performance, or privacy. Environmental harassment can inflict emotional and psychological harm on individuals and can make relationships and the work or study environment unpleasant, threatening and unproductive. However, there is no requirement that evidence of actual emotional or psychological harm be shown in order for environmental sexual harassment to be found to have occurred.

In determining whether alleged conduct constitutes sexual harassment as defined in this policy, the record as a whole will be considered, as well as the context in which the conduct occurred. “Environmental sexual harassment” normally arises from a repeated and pervasive course of conduct, whereas “bargained-for sexual harassment” can be based on a single act.

Facts will be judged on the basis of what is reasonable to persons of ordinary sensitivity and not on the particular susceptibility of an individual, unless that susceptibility is known to the alleged harasser.

Questions to Ask Parties and Witnesses

Questions to Ask the Complainant:

1. Who, what, when, where, and how: *Who* committed the alleged harassment? *What* exactly occurred or was said? *When* did it occur and is it still ongoing? *Where* did it occur? *How often* did it occur? *How* did it affect you?
2. How did you react? What response did you make when the incident(s) occurred or afterwards?
3. How did the harassment affect you? Has your job been affected in any way?
4. Are there any persons who have relevant information? Was anyone present when the alleged harassment occurred? Did you tell anyone about it? Did anyone see you immediately after episodes of alleged harassment?
5. Did the person who harassed you harass anyone else? Do you know whether anyone complained about harassment by that person?
6. Are there any notes, physical evidence, or other documentation regarding the incident(s)?
7. How would you like to see the situation resolved?
8. Do you know of any other relevant information?
9. Ask the employee to describe his/her relationship with the alleged harasser and whether that person is a co-worker, supervisor, subordinate, client/customer, or friend. Determine whether the parties have had any other difficulties working together.

Questions to Ask the Alleged Harasser:

1. What is your response to the allegations?
2. If the harasser claims that the allegations are false, ask why the complainant might lie.
3. Are there any persons who have relevant information?
4. Are there any notes, physical evidence, or other documentation regarding the incident(s)?
5. Do you know of any other relevant information?

Questions to Ask Third Parties:

1. What did you see or hear? When did this occur? Describe the alleged harasser's behavior toward the complainant and toward others in the workplace.
2. What did the complainant tell you? When did she/he tell you this?
3. Do you know of any other relevant information?
4. Are there other persons who have relevant information?